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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 John Feins,

10 Plaintiff,

11 v.

12 Goldwater Bank NA,

13 Defendant.
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No. CV-22-00932-PHX-JJT

ORDER

15 At issue is Plaintiff's First Amended Complaint (Doc. 12). A party may amend a
16 complaint once as a matter of course within 21 days after serving it, or within 21 days of
17 service of, among others, a Rule 12(b)(6) motion. Fed. R. Civ. P. 15(a). In all other
18 circumstances, absent the opposing party's written consent, a party must seek leave to
19 amend from the court. Fed. R. Civ. P. 15(a)(2). Although the decision whether to grant or
20 deny a motion to amend is within the trial court's discretion, "Rule 15(a) declares that leave
21 to amend shall be freely given when justice so requires." *Foman v. Davis*, 371 U.S. 178,
22 182 (1962) (citation and internal quotation marks omitted). "In exercising its discretion
23 with regard to the amendment of pleadings, a court must be guided by the underlying
24 purpose of Rule 15—to facilitate a decision on the merits rather than on the pleadings or
25 technicalities." *Eldridge v. Block*, 832 F.2d 1132, 1135 (9th Cir. 1987) (citation and internal
26 quotation marks omitted).

27 Here, the period in which Plaintiff could have amended its Complaint as a matter of
28 course has passed. As a result, absent Defendant's written consent, Plaintiff must file a

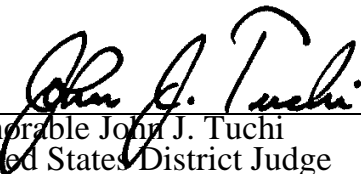
1 Motion to Amend. In addition, Local Rule 15.1(a) requires a party moving for leave to
2 amend a complaint to attach a copy of the proposed amended complaint as an exhibit to
3 the motion, “which must indicate in what respect it differs from the pleading it amends, by
4 bracketing or striking through the text to be deleted and underlining the text to be added.”
5 Plaintiff’s proposed Amended Complaint (Doc. 12) does not comply with these provisions.

6 Because Plaintiff did not file a motion requesting leave to file an Amended
7 Complaint, as required by Rule 15(a)(2), and did not attach an exhibit indicating how the
8 Amended Complaint differs from the Complaint, as required by Local Rule 15.1(a), the
9 Court will strike Plaintiff’s Amended Complaint (Doc. 12) but give Plaintiff an opportunity
10 to file a Motion to Amend by July 15, 2022. The Court will continue Defendant’s time to
11 file an Answer until such time as the Answer will be due on Plaintiff’s Amended
12 Complaint, calculated from the date Plaintiff properly files the Amended Complaint on the
13 docket after obtaining the Court’s leave to do so.

14 **IT IS THEREFORE ORDERED** striking Plaintiff’s Amended Complaint
15 (Doc. 12). Plaintiff may file a Motion to Amend pursuant to Federal Rule of Civil
16 Procedure 15(a)(2) and Local Rule 15.1(a) by July 15, 2022.

17 **IT IS FURTHER ORDERED** continuing the time Defendants have to file an
18 Answer until such time as the Answer will be due on a properly filed Amended Complaint.

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20 Dated this 7th day of July 2022.

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22 Honorable John J. Tuchi
23 United States District Judge
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